

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA,
NORTHERN DIVISION**

C&J ASSOCIATES PEST CONTROL,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 2:06-cv-884-MEF
)	
BOB RILEY, et al.,)	
)	
Defendants.)	

RESPONSE TO SHOW CAUSE ORDER

COME NOW Defendants Attorney General Troy King, Kathy Sawyer, Courtney Tarver, June Lynn, Judy Cobb and Ray Bressler, sued in both their official and individual capacities, and in response to this Honorable Court's Order entered on January 26, 2007, respond as follows:

1. On October 27, 2006, these defendants filed a Motion for Extension of Time to File Responsive Pleading with this Court noting that service had not been perfected against Defendant Attorney General Troy King, and questioning the sufficiency of service on Defendants Kathy Sawyer, Courtney Tarver, June Lynn, Judy Cobb and Ray Bressler.
2. On November 2, 2006, this Court granted the Motion for Extension, and set the date of Friday, November 17, 2006, as the date for a response. Also on November 2, 2006, this Court sent notice that Attorney General King had been served with the lawsuit and that a response was due on Tuesday, November 21, 2006.

3. Due to the undersigned counsel's representation of multiple defendants in this case, the response due date was inadvertently and erroneously placed on the undersigned counsel's calendar as Tuesday, November 21, 2006. This oversight was due to excusable neglect and was remedied within one business day.
4. On Monday, November 20, 2006, these defendants filed a Motion to Dismiss with this Court. Plaintiff does not dispute that this was within the time allowed for a response from Attorney General King, but nonetheless moved to add Attorney General King to the motion for default on no valid ground. (Doc. 34 & Doc. 35)
5. These Defendants have meritorious defenses, and respectfully request that the reasons given be found to be good cause. The Plaintiff did not suffer any prejudice to his case as he admittedly received a copy of these defendants' Motion to Dismiss at the same time he received all other previously filed motions. (Doc. 35 & Doc. 50) See, *Lowery v. Hoffman*, 188 F.R.D. 651 (M.D.Ala.1999).
6. A default judgment is clearly "a drastic remedy and should be resorted to only in extreme situations." *Charlton L. Davis & Co. P. C. v. Fedder Data Center*, 556 F.2d 308 (5th Cir. 1977).

WHEREFORE, the above-cited grounds considered, Defendants Attorney General Troy King, Kathy Sawyer, Courtney Tarver, June Lynn, Judy Cobb and Ray Bressler request that this Honorable Court accept the reasons given as good cause, deny the Plaintiff's Motion for Default, accept and grant these defendants'

Motion to Dismiss, and enter a judgment in their favor dismissing all the Plaintiff's claims against them.

Done this 1st day of February, 2007.

Respectfully submitted,

/s/ Benjamin H. Albritton
Benjamin H. Albritton (ASB-0993-R67B)
Assistant Attorney General

ADDRESS OF COUNSEL:

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CERTIFICATE OF SERVICE

I hereby certify that I have electronically filed the foregoing with the Clerk of Court using the CM/ECF system on this the 1st day of February, 2007. The Clerk will send notification of this filing to all counsel of record.

I hereby certify that I have mailed by United States Postal Service the foregoing document to the following individuals:

Curtis Duncan
C&J Associates Pest Control
P.O. Box 8186
Montgomery, Alabama 36110

/s/Benjamin H. Albritton
Benjamin H. Albritton
Assistant Attorney General